

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Bail Appl..No. 4022 of 2007()

AGAINST THE JUDGMENT/ORDER IN BA.2495/2007
C.R.NO.11/07 OF VADAKKANCHERRY EXCISE RANGE
.....

: PETITIONER/ACCUSED

BABURAJ, S/O NANDANAN,
ASARIPARAMBIL HOUSE, POOMALA,
THEKKUMKARA VILLAGE, TRICHUR DISTRICT.

BY ADV. SRI.P.K.ANIL

RESPONDENTS: COMPLAINANT & STATE

1. THE INSPECTOR OF EXCISE,
EXCISE RANGE, VADAKKANCHERRY.
2. STATE REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.4022 of 2007

Dated this the 4th day of July, 2007

ORDER

Second application for anticipatory bail. The petitioner faces allegations under the provisions of the Kerala Abkari Act. His earlier application for bail was dismissed by another Bench of this Court holding that the petitioner is not entitled for anticipatory bail and directing him to surrender before the learned Magistrate having jurisdiction. The learned Magistrate was further directed to consider such application for bail in the light of the dictum in **Sukumari v. State of Kerala** [2001(1) K.L.T 22]. The petitioner did not surrender before the learned Magistrate within the period stipulated. He has come before this Court again with the present application seeking the very same relief.

2. How is this petition maintainable ? What is the change in circumstances ? Evidently and obviously, I cannot sit in judgment over the earlier decision by another Bench. The petitioner has not chosen to challenge the same also. The only other circumstance urged is that there has been passage of time. Except that there has been passage of time, no other circumstance whatsoever is brought to the notice of the Court. I am, in these circumstances, satisfied that this application for anticipatory bail is misconceived. The petitioner

cannot succeed. Needless to say that the petitioner can appear before the Investigating Officer or the learned Magistrate and the petitioner's application for regular bail thereafter must be considered by the learned Magistrate on merits, in accordance with law and expeditiously - in the light of the decision in **Sukumari v. State of Kerala** (supra).

(R.BASANT, JUDGE)

rtr/-